

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation
of Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

J. EZRA MERKIN, GABRIEL CAPITAL, L.P.,
ARIEL FUND LTD., ASCOT PARTNERS, L.P.,
ASCOT FUND LTD., GABRIEL CAPITAL
CORPORATION,

Defendants.

No. 08-01789 (SMB)

SIPA LIQUIDATION

(Substantively Consolidated)

Adv. Pro. No. 09-01182 (SMB)

STIPULATION

WHEREAS, on May 7, 2009, Plaintiff Irving H. Picard, Trustee for the liquidation of Bernard L. Madoff Investment Securities LLC and Bernard L. Madoff (the "Trustee") commenced this adversary proceeding against defendants J. Ezra Merkin, Gabriel Capital, L.P., Ariel Fund Ltd., Gabriel Capital Corporation, and Ascot Partners, L.P. ("Ascot Partners"); and

WHEREAS, on June 15, 2009, the Trustee moved for a temporary restraining order and injunction pursuant to Bankruptcy Rule 7065 and Rule 65 of the Federal Rules of Civil Procedure to preserve Ascot Partners' known remaining assets; and

WHEREAS, on June 19, 2009, the Court entered a Stipulation and Order (the "Initial Injunction") issuing an injunction on consent of the parties and releasing \$350,000 from the

funds held in defendant Ascot Partners' account at Morgan Stanley & Co., Inc. ("Morgan Stanley account") to the duly appointed receiver for Ascot Partners (the "Receiver"); and

WHEREAS, a hearing on the Trustee's Application for a Preliminary Injunction was held on July 28, 2009, pursuant to which the Court entered a Stipulation and Order Continuing Injunction (the "Continuing Injunction Order") on consent of Ascot Partners and the Trustee on substantially the same terms as the Initial Injunction (ECF No. 61);

WHEREAS, the Trustee and Ascot Partners agreed to a settlement of the Trustee's adversary proceeding by agreement dated June 12, 2018 ("Settlement Agreement");

WHEREAS, on July 3, 2018, the Court entered an order approving the settlement agreement ("Settlement Order");

WHEREAS, the period for appealing the Settlement Order has passed;

WHEREAS, all conditions, obligations, and releases set forth in the Settlement Agreement have been effectuated; and

WHEREAS the continuing injunction on Ascot Partners' Morgan Stanley account is no longer necessary.

NOW, THEREFORE, it is stipulated and agreed by and between the Trustee and Ascot Partners:

1. The Continuing Injunction Order entered by the late Honorable Burton R. Lifland on February 4, 2010 is hereby vacated; and
2. Each party is to bear its own costs and attorneys' fees associated with vacating the Continuing Injunction Order.

Dated: New York, New York
October 23, 2018

BAKER & HOSTETLER LLP

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estate of Bernard L. Madoff Investment
Securities LLC and the Chapter 7
Estate of Bernard L. Madoff*

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Ascot Fund Ltd.*